



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

**COMMISSION ADJUDICATORY
DOCKET NO. 650**

**IN THE MATTER
OF
MATTHEW J. O'NEIL**

DISPOSITION AGREEMENT

This Disposition Agreement is entered into between the State Ethics Commission and Matthew J. O'Neil pursuant to Section 5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented-to final order enforceable in Superior Court, pursuant to G.L. c. 268B, §4(j).

On August 8, 2001, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by O'Neil. The Commission has concluded its inquiry and, on November 13, 2001, found reasonable cause to believe that O'Neil violated G.L. c. 268A, §20.

The Commission and O'Neil now agree to the following findings of fact and conclusions of law:

Findings of Fact

1. In spring 1999, O'Neil was the Chief of Staff of the Boston Redevelopment Authority ("BRA").
2. In May 1999, O'Neil signed a Purchase and Sale Agreement to purchase Unit 17 in the Charlestown Navy Yard Rowhouses ("Unit 17") for \$158,462.
3. The property on which the Charlestown Navy Yard Rowhouses are located was conveyed to developers by the BRA in 1989. In connection with that original conveyance, Unit 17 was subject to a deed restriction enforceable by the BRA. That deed restriction precluded sellers including O'Neil from conveying a unit for more than a "maximum resale price" set by the BRA. (The "maximum resale price" was the purchase price plus five percent per annum.) But for the "maximum resale price" restriction, Unit 17's fair market value would have been no less than twice the amount that O'Neil paid for the unit.
4. As part of the BRA's arrangement to ensure that units are not sold for amounts in excess of the maximum resale price, the BRA requires that all unit purchasers execute a BRA Note. That note obligates buyers to disgorge 30 percent of their monetary gain if they sell their unit for an amount in excess of the maximum resale price. So that the BRA may secure its interest in the BRA note, purchasers must also execute a BRA mortgage.
5. The BRA Note and the BRA Mortgage are both contracts between the BRA and the purchaser. But for the execution of these two agreements, the purchase and sale of the unit cannot be consummated. O'Neil signed both contracts.

6. In or about May 1999, the BRA's general counsel advised O'Neil that he should obtain legal advice from the Ethics Commission before proceeding with the Unit 17 purchase. O'Neil did not seek such advice.

Conclusions of Law

7. Section 20 of G.L. c. 268A prohibits a municipal employee from having a financial interest, directly or indirectly, in a contract made by a municipal agency of the same city or town, in which the same city or town is an interested party of which financial interest the employee has knowledge or reason to know. (There are a number of exemptions in §20, but none are applicable here.)

8. As the BRA's Chief of Staff, O'Neil was in Spring 1999 a municipal employee as that term is defined in G.L. c. 268A, §1. More particularly, he was a city of Boston municipal employee.

9. The BRA Note and the BRA Mortgage were contracts made by the BRA, a municipal agency of the city of Boston in which the City of Boston was an interested party. O'Neil had a financial interest in these contracts for two reasons: one, but for his signing these contracts he would not have been able to purchase Unit 17; and two, they exposed him to the possibility of certain future legal actions by the BRA that could result in significant financial forfeitures.

10. O'Neil knew of his financial interests in the two contracts between him and the BRA.

11. Therefore, by as a city of Boston employee entering into the BRA Note and the BRA Mortgage with a city of Boston agency, while knowing of his financial interest in those two contracts, O'Neil violated §20.

Resolution

In view of the foregoing violation of G.L. c. 268A by O'Neil, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by O'Neil:

(1) that O'Neil pay to the Commission the sum of \$2,000.00 as a civil penalty for violating G.L.

(2) that O'Neil (i) sell Unit 17 at no profit (i.e., at a price no higher than the sum of his original purchase price plus the cost of those capital improvements which he is permitted to recover under Section 9.4 of the Charlestown Navy Yard Rowhouses Master Deed) to a bona fide purchaser;^{1/} (ii) vacate the premises, and (iii) terminate any financial interest in Unit 17, either direct or indirect, all within 180 days of executing this agreement;^{2/}

(3) that O'Neil waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: December 20, 2001

1/A bona fide purchaser is a purchaser who is neither related to O'Neil, nor a friend of O'Neil's, nor an individual or individuals with whom he has a prior business relationship.

2/O'Neil will provide the Commission with an affidavit attesting to his compliance with this paragraph (2) within ten (10) days of selling Unit 17. The affidavit shall be in a form agreeable to both the parties to this agreement.